

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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JACKSON HEWITT, INC.,

Plaintiff,

v.

ALBERT D. ADAMS,

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Defendant.

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**Hon. Dennis M. Cavanaugh**

**OPINION**

Civil Action No. 04-CV-3610 (DMC)

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Mark Falk, filed on May 4, 2006, whereby Judge Falk recommended this Court to grant Plaintiff's motion to strike Defendant's Answer and Counterclaim and to enter Default against Defendant. No oral argument was heard pursuant to Rule 78 of the Federal Rules of Civil Procedure. For the reasons set forth below, the Report and Recommendation of Judge Falk that Plaintiff's motion to strike Defendant's Answer and Counterclaim is **adopted** and **affirmed**.

**I. DISCUSSION**

Pursuant to 28 U.S.C. § 636(b)(1)(B), a magistrate judge may submit to a district court proposed findings of fact and recommendations concerning dispositive matters. The United States Supreme Court has held that "[w]here a Magistrate makes a finding or ruling on a motion or an issue, his determination should become that of the district court unless specific objection is filed within a reasonable time." Thomas v. Arn, 474 U.S. 140, 150-51 (1985). Section

636(b)(1) and Local Civil Rule 72.1(c)(2) prescribe a ten day period during which a party may object to a Magistrate Judge's report and recommendation. A District Court Judge may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. See 28 U.S.C. § 636(b)(1)(C); L. Civ. R. 72.1(c)(2).

Judge Falk's Report and Recommendation that Plaintiff's motion to strike Defendant's Answer and Counterclaim was filed on May 4, 2006. No opposition was submitted. This Court has reviewed this matter and wholeheartedly agrees with Judge Falk's well reasoned Report and Recommendation, finding that it is neither contrary to law nor clearly erroneous. Therefore, this Court adopts without hesitation or modification Judge Falk's Report and Recommendation in its entirety.

## **II. CONCLUSION**

Based on the foregoing, Judge Falk's Report and Recommendation that Plaintiff's motion to strike Defendant's Answer and Counterclaim is hereby **adopted** and **affirmed**. Plaintiff is directed to move for entry of default and default judgment within fourteen days. An appropriate Order accompanies this Opinion.

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S/ Dennis M. Cavanaugh  
Dennis M. Cavanaugh, U.S.D.J.

Date: May 19, 2006  
Original: Clerk's Office  
Cc: All Counsel of Record  
The Honorable Mark Falk, U.S.M.J.  
File